

ESTTA Tracking number: **ESTTA544771**

Filing date: **06/24/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ares Trading S.A.
Granted to Date of previous extension	07/03/2013
Address	Zone industrielle de l'Ouriettaz Aubonne CH-1170, SWITZERLAND

Attorney information	Robert B.G. Horowitz, Esq. Baker & Hostetler LLP 45 Rockefeller Plaza, 14th Floor New York, NY 10111 UNITED STATES rhorowitz@bakerlaw.com, ejoyce@bakerlaw.com, nydocketing@bakerlaw.com Phone:212 589-4200
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Applicant Information

Application No	85811870	Publication date	03/05/2013
Opposition Filing Date	06/24/2013	Opposition Period Ends	07/03/2013
Applicant	Metagenics, Inc. 25 Enterprise, Suite 200 Aliso Viejo, CA 92656 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Dietary Supplements
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2012301	Application Date	04/06/1994
Registration Date	10/29/1996	Foreign Priority Date	NONE
Word Mark	SEROSTIM		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 005. First use: First Use: 1994/01/31 First Use In Commerce: 1994/01/31 pharmaceutical preparations for human use for the treatment of patients with AIDS associated catabolism/wasting

U.S. Registration No.	2925322	Application Date	02/05/2004
Registration Date	02/08/2005	Foreign Priority Date	NONE
Word Mark	SEROSTIM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2004/05/00 First Use In Commerce: 2004/05/00 Pharmaceutical preparations to treat morphologic and metabolic complications of HIV/AIDS		

U.S. Registration No.	3720570	Application Date	02/06/2008
Registration Date	12/08/2009	Foreign Priority Date	NONE
Word Mark	SEROSTIM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: Injection device for pharmaceuticals		

Attachments	Notice of Opposition.pdf(279108 bytes) Notice of Opposition - Exhibit 1.pdf(661458 bytes) Notice of Opposition - Exhibit 2.pdf(661902 bytes) Notice of Opposition - Exhibit 3.pdf(622886 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert B.G. Horowitz/
Name	Robert B.G. Horowitz, Esq.
Date	06/24/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/811,870

Filed December 28, 2012

Trademark SeroSyn

Published March 5, 2013

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ARES TRADING S.A.,

Opposer,

Opposition No.

V.

METAGENICS, INC.,

Applicant.

-----X

NOTICE OF OPPOSITION

ARES TRADING S.A., a société anonyme organized and existing under the laws of Switzerland, having a legal address at Zone Industrielle de L'Ourièttaz, CH-1170 Aubonne, Switzerland, (hereinafter "Opposer"), believes that it will be damaged by registration of the mark shown in Application No. 85/811,870 for SeroSyn filed by METAGENICS, INC., a Delaware corporation whose address is 25 Enterprise, Suite 200, Aliso Viejo, California 92656 (hereinafter "Applicant"), and hereby opposes issuance of a registration therefor.

As grounds for opposition, Opposer states as follows:

1. Opposer is engaged in the development, production, sale, advertising and distribution of a wide variety of pharmaceutical preparations.

2. Long prior to December 28, 2012, the filing date of Applicant's intent-to-use application, Opposer adopted and has been using in the United States the arbitrary and distinctive trademark SEROSTIM for use in association with pharmaceutical preparations for human use for the treatment of patients with HIV-wasting to increase weight and lead body mass and improve physical endurance.

3. On October 29, 1996, U.S. Trademark Registration No. 2012301 for SEROSTIM issued to Opposer for "pharmaceutical preparations for human use for the treatment of patients with AIDS associated catabolism/wasting".

4. A true, accurate and correct copy of said Registration No. 2012301 and the current status of same as indicated in the U.S. Patent and Trademark Office TARR database records is attached as Exhibit 1.

5. Long prior to December 28, 2012, Opposer adopted and has been using the mark SEROSTIM and design for pharmaceutical preparations to treat morphologic and metabolic complications of HIV/AIDS.

6. On February 8, 2005, U.S. Trademark Registration No. 2925322 for SEROSTIM and design issued to Opposer for "pharmaceutical preparations to treat morphologic and metabolic complications of HIV/AIDS".

7. A true, accurate and correct copy of said Registration No. 2925322 and the current status of same as indicated in the U.S. Patent and Trademark Office TARR database records is attached as Exhibit 2.

8. Long prior to December 28, 2012, Opposer adopted the mark SEROSTIM for an injection device for pharmaceuticals.

9. On December 8, 2009, U.S. Trademark Registration No. 3720570 issued to Opposer

for SEROSTIM for "injection device for pharmaceuticals".

10. A true, accurate and correct copy of said Registration No. 3720570 and the current status of same as indicated in the U.S. Patent and Trademark Office TARR database records is attached as Exhibit 3.

11. Upon information and belief, Applicant is engaged in the development, production, sale, advertisement and distribution of dietary supplements.

12. On December 28, 2012, a date subsequent to the issuance of Opposer's SEROSTIM trademark registrations, Applicant applied for registration of the mark SeroSyn, which was assigned Serial No. 85/811,870. The goods in Applicant's SeroSyn trademark application presently are: "dietary supplements".

13. Some manufacturers of pharmaceuticals also produce dietary supplements.

14. Pharmaceuticals and dietary supplements are sold in overlapping channels of trade, namely at drugstores and pharmacies.

15. Dietary aid supplements, like pharmaceuticals, are an important part of regimens used by HIV/AIDS patients to fight their disease.

16. Opposer's and Applicant's marks are nearly identical in sound and quite close in appearance.

17. Applicant's use and registration of the mark SeroSyn in association with its goods is likely to cause confusion, or to cause mistake or to deceive, or lead persons to believe that Applicant's goods are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer, in view of Opposer's prior use and registration rights for SEROSTIM for closely related goods.

WHEREFORE, Opposer prays that its opposition be sustained and that the registration sought by Applicant be refused.

Respectfully submitted,

BAKER & HOSTETLER LLP
Attorneys for Opposer

A handwritten signature in black ink, appearing to read 'Robert B.G. Horowitz', written over a horizontal line.

Dated: June 24, 2013

By: _____
Robert B.G. Horowitz
Donna A. Tobin
45 Rockefeller Plaza
New York, N.Y. 10111
Tel. 212 589-4200
Fax 212 589-4201

PROOF OF SERVICE

On June 24, 2013, I served a copy of the foregoing document described as NOTICE OF OPPOSITION, and exhibits, by U.S. Mail, postage prepaid, to the correspondent of record for the Applicant, addressed as follows:

Ms. Jennifer Pence, Assistant Corporate Secretary
Metagenics, Inc.
25 Enterprise, Suite 200
Aliso Viejo, California 92656


Eileen Joyde

EXHIBIT 1

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 2,012,301

Registered Oct. 29, 1996

TRADEMARK
PRINCIPAL REGISTER

SEROSTIM

ARES TRADING S.A. (SWITZERLAND CORPORATION)
CHATEAU DE VAUMARCUS, VAUMARCUS;
C/O ARES SERVICES S.A.
15BIS, CHEMIN DES MINES
1202 GENEVA, SWITZERLAND

OLISM/WASTING, IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 1-31-1994; IN COMMERCE 1-31-1994.

OWNER OF U.S. REG. NOS. 1,203,265, 1,698,822, AND OTHERS.

SN 74-510,500, FILED 4-6-1994.

FOR: PHARMACEUTICAL PREPARATIONS
FOR HUMAN USE FOR THE TREATMENT OF
PATIENTS WITH AIDS ASSOCIATED CATAB-

MICHAEL HAMILTON, EXAMINING ATTORNEY

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Mark: SEROSTIM

US Serial Number: 74510500 Application Filing Date: Apr. 06, 1994
US Registration Number: 2012301 Registration Date: Oct. 29, 1996
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Sep. 27, 2006
Publication Date: Mar. 21, 1995 Notice of Allowance Date: Jun. 13, 1995

Mark Information

Mark Literal Elements: SEROSTIM
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

Claimed Ownership of US Registrations: 1203265, 1581023, 1619369, 1649909, 1666397, 1667533, 1698822 and others

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: pharmaceutical preparations for human use for the treatment of patients with AIDS associated catabolism/wasting

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 31, 1994

Use in Commerce: Jan. 31, 1994

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: ARES TRADING S.A.
Owner Address: Zone Industrielle de L' Ourietaz
Aubonne CH-1170
SWITZERLAND
Legal Entity Type: CORPORATION State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Robert B.G. Horowitz, Esq.
Attorney Primary Email Address: rhorowitz@bakerlaw.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Robert B.G. Horowitz, Esq.
Baker & Hostetler LLP
45 Rockefeller Plaza
New York, NEW YORK 10111
UNITED STATES

Phone: 212 589-4200

Fax: 212 589-4201

Correspondent e-mail: rhorowitz@bakerlaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Robert B.G. Horowitz, Esq.

Phone: 212 589-4200

Fax: 212 589-4201

Domestic Representative e-mail: rhorowitz@bakerlaw.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Feb. 08, 2010	ATTORNEY REVOKED AND/OR APPOINTED	
Feb. 08, 2010	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 12, 2008	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 12, 2008	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 27, 2006	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	64591
Sep. 27, 2006	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Sep. 12, 2006	ASSIGNED TO PARALEGAL	64591
Jun. 15, 2006	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Jun. 15, 2006	PAPER RECEIVED	
Jun. 21, 2006	CASE FILE IN TICRS	
Oct. 19, 2004	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jul. 14, 2002	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
May 30, 2002	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Oct. 29, 1996	REGISTERED-PRINCIPAL REGISTER	
Sep. 11, 1996	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jul. 11, 1996	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jan. 17, 1996	NON-FINAL ACTION MAILED	
Dec. 22, 1995	STATEMENT OF USE PROCESSING COMPLETE	
Nov. 06, 1995	USE AMENDMENT FILED	
Jun. 13, 1995	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 21, 1995	PUBLISHED FOR OPPOSITION	
Feb. 17, 1995	NOTICE OF PUBLICATION	
Aug. 27, 1994	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 24, 1994	ASSIGNED TO EXAMINER	64390

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Oct. 29, 2006

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: POST REGISTRATION

Date in Location: Sep. 27, 2006

Proceedings

Summary

Number of Proceedings: 3

Type of Proceeding: Opposition

Proceeding Number: 91205505

Filing Date: Jun 08, 2012

Status: Pending

Status Date: Jun 08, 2012

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Western Holdings, LLC

Correspondent Address: DAVID R PARKINSON
PRICE PARKINSON & KERR PLLC
5742 W HAROLD GATTY DR
SALT LAKE CITY UT , 84116 3762
UNITED STATES

Correspondent e-mail: IP@mjsc.net , davidparkinson@ppktrial.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSLIM	Opposition Pending	<u>85491482</u>	
Plaintiff(s)			

Name: Ares Trading S.A.

Correspondent Address: ROBERT B G HOROWITZ
BAKER & HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY , 10111
UNITED STATES

Correspondent e-mail: rhowitz@bakerlaw.com , ejoyce@bakerlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 08, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 08, 2012	Jul 18, 2012
3	PENDING, INSTITUTED	Jun 08, 2012	
4	STIPULATION FOR AN EXTENSION OF TIME	Jul 16, 2012	
5	EXTENSION OF TIME GRANTED	Jul 16, 2012	
6	STIPULATION FOR AN EXTENSION OF TIME	Aug 17, 2012	
7	EXTENSION OF TIME GRANTED	Aug 17, 2012	
8	STIPULATION FOR AN EXTENSION OF TIME	Sep 17, 2012	
9	EXTENSION OF TIME GRANTED	Sep 17, 2012	
10	STIPULATION FOR AN EXTENSION OF TIME	Oct 16, 2012	
11	EXTENSION OF TIME GRANTED	Oct 16, 2012	
12	NOTICE OF DEFAULT	Jan 10, 2013	
13	APPL'S MOTION TO AMEND APPLICATION	Feb 08, 2013	

Type of Proceeding: OppositionProceeding Number: 91198217

Filing Date: Jan 18, 2011

Status: Terminated

Status Date: Aug 22, 2011

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Applied Lifescience Research Industries, Inc.

Correspondent Address: CHARLES C WELLER
CHARLES C WELLER APC
8740 VILLA LA JOLLA DRIVE, SUITE 16
LA JOLLA CA , 92037-1935
UNITED STATES

Correspondent e-mail: legal@cweller.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
ZERO-STIM	Abandoned - After Inter-Partes Decision	<u>85073089</u>	

Plaintiff(s)

Name: Ares Trading S.A.

Correspondent Address: ROBERT BG HOROWITZ
BAKER AND HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY , 10111
UNITED STATES

Correspondent e-mail: rhorowitz@bakerlaw.com , ejoyce@bakerlaw.com , nydocketing@bakerlaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 18, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 18, 2011	Feb 27, 2011
3	PENDING, INSTITUTED	Jan 18, 2011	
4	NOTICE OF DEFAULT	Mar 14, 2011	
5	D'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 07, 2011	
6	P'S CONSENT TO D'S REQUEST TO VACATE DEFAULT AND RESET DATES	Apr 27, 2011	
7	TRIAL DATES RESET	May 09, 2011	
8	NOTICE OF DEFAULT	Jun 23, 2011	
9	BOARD'S DECISION: SUSTAINED	Aug 22, 2011	
10	TERMINATED	Aug 22, 2011	

Type of Proceeding: OppositionProceeding Number: 91181710

Filing Date: Dec 13, 2007

Status: Terminated

Status Date: Oct 29, 2008

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Western Holdings, LLC

Correspondent Address: Evan S. Strassberg
Basic Research LLC
5742 W. Harold Gatty Drive
Salt Lake City UT , 84116
UNITED STATES

Correspondent e-mail: evan.strassberg@basicresearch.org**Associated marks**

Mark	Application Status	Serial Number	Registration Number
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SEROSLIM

Abandoned - No Statement Of Use Filed

77111678

Plaintiff(s)

Name: Ares Trading S.A. and EMD Serono, Inc.

Correspondent Address: Angela M. Martucci
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York NY , 10036-8403
UNITED STATES

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 13, 2007	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 07, 2008	Feb 16, 2008
3	PENDING, INSTITUTED	Jan 07, 2008	
4	ANSWER	Feb 11, 2008	
5	RESPONSE DUE (20 DAYS)	Apr 17, 2008	
6	P'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 30, 2008	
7	DEF'S RESPONSE DUE 20 DAYS; PROCS O/W SUSPENDED	May 30, 2008	
8	D'S COMMUNICATION W/FEE	Jun 20, 2008	
9	RESPONSE DUE 30 DAYS (DUE DATE)	Jul 22, 2008	Aug 21, 2008
10	CHANGE OF CORRESPONDENCE ADDRESS	Aug 05, 2008	
11	ANSWER TO COUNTERCLAIM	Aug 19, 2008	
12	STIPULATED TO AMEND	Sep 29, 2008	
13	BOARD'S DECISION: DISMISSED	Oct 29, 2008	
14	TERMINATED	Oct 29, 2008	

EXHIBIT 2

Int. Cl.: 5

Prior U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,925,322

Registered Feb. 8, 2005

**TRADEMARK
PRINCIPAL REGISTER**



ARES TRADING S.A. (SWITZERLAND CORPORATION)
CHATEAU DE VAUMARCUS
VAUMARCUS, SWITZERLAND 2028

FIRST USE 5-0-2004; IN COMMERCE 5-0-2004.

OWNER OF U.S. REG. NO. 2,012,301.

SER. NO. 78-363,301, FILED 2-5-2004.

FOR: PHARMACEUTICAL PREPARATIONS TO
TREAT MORPHOLOGIC AND METABOLIC COM-
PLICATIONS OF HIV/AIDS, IN CLASS 5 (U.S. CLS. 6,
18, 44, 46, 51 AND 52).

DANIELLE MATTESSICH, EXAMINING ATTOR-
NEY

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Mark: SEROSTIM



US Serial Number: 78363301 Application Filing Date: Feb. 05, 2004
US Registration Number: 2925322 Registration Date: Feb. 08, 2005
Register: Principal
Mark Type: Trademark
Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.
Status Date: Feb. 19, 2010
Publication Date: Nov. 16, 2004

Mark Information

Mark Literal Elements: SEROSTIM
Standard Character Claim: No
Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)
Design Search Code(s): 26.03.03 - Incomplete ovals; Ovals, incomplete
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved
26.17.25 - Other lines, bands or bars

Related Properties Information

Claimed Ownership of US 2012301
Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Pharmaceutical preparations to treat morphologic and metabolic complications of HIV/AIDS

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: May 2004

Use in Commerce: May 2004

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Ares Trading S.A.
Owner Address: Zone Industrielle de L'Ouriettaz
Aubonne CH1170
SWITZERLAND
Legal Entity Type: CORPORATION State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Robert B.G. Horowitz, Esq.
Attorney Primary Email Address: rhorowitz@bakerlaw.com

Docket Number: 96307.159
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Robert B.G. Horowitz, Esq.
BAKER & HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10111
UNITED STATES

Phone: 212 589-4240

Fax: 212 589-4201

Correspondent e-mail: rhorowitz@bakerlaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Robert B.G. Horowitz, Esq.

Phone: 212 589-4200

Fax: 212 589-4201

Domestic Representative e-mail: rhorowitz@bakerlaw.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Feb. 19, 2010	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	70619
Feb. 19, 2010	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70619
Feb. 09, 2010	TEAS SECTION 8 & 15 RECEIVED	
Apr. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Apr. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Feb. 08, 2005	REGISTERED-PRINCIPAL REGISTER	
Nov. 16, 2004	PUBLISHED FOR OPPOSITION	
Oct. 27, 2004	NOTICE OF PUBLICATION	
Sep. 21, 2004	LAW OFFICE PUBLICATION REVIEW COMPLETED	76568
Sep. 17, 2004	ASSIGNED TO LIE	76568
Sep. 03, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 03, 2004	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Sep. 02, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 31, 2004	EXAMINER'S AMENDMENT ENTERED	76568
Sep. 02, 2004	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Sep. 02, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Sep. 01, 2004	ASSIGNED TO LIE	76568
Aug. 31, 2004	EXAMINER'S AMENDMENT MAILED	
Aug. 31, 2004	USE AMENDMENT ACCEPTED	
Aug. 27, 2004	ASSIGNED TO EXAMINER	76736
Aug. 12, 2004	AMENDMENT FROM APPLICANT ENTERED	69350
Jul. 23, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	69350
Aug. 11, 2004	AMENDMENT TO USE PROCESSING COMPLETE	
Jul. 23, 2004	USE AMENDMENT FILED	
Jul. 23, 2004	PAPER RECEIVED	
Feb. 13, 2004	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Section 15 - Accepted

Incontestability:

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMEG LAW OFFICE 106

Date in Location: Feb. 19, 2010

Proceedings

Summary

Number of Proceedings: 3

Type of Proceeding: Opposition

Proceeding Number: 91205505

Filing Date: Jun 08, 2012

Status: Pending

Status Date: Jun 08, 2012

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Western Holdings, LLC

Correspondent Address: DAVID R PARKINSON
PRICE PARKINSON & KERR PLLC
5742 W HAROLD GATTY DR
SALT LAKE CITY UT , 84116 3762
UNITED STATES

Correspondent e-mail: IP@mjsc.net , davidparkinson@ppktrial.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSLIM	Opposition Pending	<u>85491482</u>	
	Plaintiff(s)		

Name: Ares Trading S.A.

Correspondent Address: ROBERT B G HOROWITZ
BAKER & HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY , 10111
UNITED STATES

Correspondent e-mail: rhorowitz@bakerlaw.com , ejoyce@bakerlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 08, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 08, 2012	Jul 18, 2012
3	PENDING, INSTITUTED	Jun 08, 2012	
4	STIPULATION FOR AN EXTENSION OF TIME	Jul 16, 2012	
5	EXTENSION OF TIME GRANTED	Jul 16, 2012	
6	STIPULATION FOR AN EXTENSION OF TIME	Aug 17, 2012	
7	EXTENSION OF TIME GRANTED	Aug 17, 2012	
8	STIPULATION FOR AN EXTENSION OF TIME	Sep 17, 2012	
9	EXTENSION OF TIME GRANTED	Sep 17, 2012	
10	STIPULATION FOR AN EXTENSION OF TIME	Oct 16, 2012	
11	EXTENSION OF TIME GRANTED	Oct 16, 2012	
12	NOTICE OF DEFAULT	Jan 10, 2013	
13	APPL'S MOTION TO AMEND APPLICATION	Feb 08, 2013	

Type of Proceeding: OppositionProceeding Number: 91198217

Filing Date: Jan 18, 2011

Status: Terminated

Status Date: Aug 22, 2011

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Applied Lifescience Research Industries, Inc.

Correspondent Address: CHARLES C WELLER
CHARLES C WELLER APC
8740 VILLA LA JOLLA DRIVE, SUITE 16
LA JOLLA CA , 92037-1935
UNITED STATES

Correspondent e-mail: legal@cweller.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
ZERO-STIM	Abandoned - After Inter-Partes Decision	<u>85073089</u>	

Plaintiff(s)

Name: Ares Trading S.A.

Correspondent Address: ROBERT BG HOROWITZ
BAKER AND HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY , 10111
UNITED STATES

Correspondent e-mail: rhorowitz@bakerlaw.com , ejoyce@bakerlaw.com , nydocketing@bakerlaw.com**Associated marks**

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 18, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 18, 2011	Feb 27, 2011
3	PENDING, INSTITUTED	Jan 18, 2011	
4	NOTICE OF DEFAULT	Mar 14, 2011	
5	D'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 07, 2011	
6	P'S CONSENT TO D'S REQUEST TO VACATE DEFAULT AND RESET DATES	Apr 27, 2011	
7	TRIAL DATES RESET	May 09, 2011	
8	NOTICE OF DEFAULT	Jun 23, 2011	
9	BOARD'S DECISION: SUSTAINED	Aug 22, 2011	
10	TERMINATED	Aug 22, 2011	

Type of Proceeding: OppositionProceeding Number: 91164551

Filing Date: Mar 03, 2005

Status: Terminated

Status Date: Mar 17, 2005

Interlocutory Attorney:

Defendant

Name: ProSource Performance Products, Inc.

Correspondent Address: RICHARD A. CATALINA, JR.
CATALINA & ASSOCIATES
167 AVENUE AT THE COMMONS
SHREWSBURY NJ , 07702

Associated marks

Mark	Application Status	Serial Number	Registration Number
NEUROSTIM	Abandoned - After Inter-Partes Decision	<u>76589154</u>	

Plaintiff(s)

Name: Ares Trading S.A.

Correspondent Address: Peter S. Sloane
Ostrolenk, Faber, Gerb & Soffen, LLP
7th Floor 1180 Avenue of the Americas
New York NY , 10036

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Mar 03, 2005	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 17, 2005	Apr 26, 2005
3	PENDING, INSTITUTED	Mar 17, 2005	
4	NOTICE OF DEFAULT	Jun 29, 2005	
5	WITHDRAWAL OF APPLICATION WITH CONSENT	Jul 07, 2005	
6	BD'S DECISION: DISMISSED W/O PREJUDICE	Jul 27, 2005	
7	TERMINATED	Jul 27, 2005	

EXHIBIT 3

United States of America

United States Patent and Trademark Office

SEROSTIM

Reg. No. 3,720,570 ARES TRADING S.A. (SWITZERLAND SOCIEDAD ANONIMA (SA))
Registered Dec. 8, 2009 ZONE INDUSTRIELLE DE L'OURIETTAZ
AUBONNE, SWITZERLAND CH-1170

Int. Cl.: 10 FOR: INJECTION DEVICE FOR PHARMACEUTICALS, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

TRADEMARK THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.
PRINCIPAL REGISTER

OWNER OF SWITZERLAND REG. NO. 586922, DATED 5-26-2009, EXPIRES 1-15-2019.

OWNER OF U.S. REG. NOS. 2,012,301 AND 2,925,322.

SER. NO. 77-390,281, FILED 2-6-2008.

RUDY R. SINGLETON, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

May 15, 2013

NOTICE OF PUBLICATION

- | | |
|-------------------------------------|---|
| 1. Serial No.:
85-849,788 | 2. Mark:
SONI GUARD
(STYLIZED/DESIGN) |
| 3. International Class(es):
17 | |
| 4. Publication Date:
Jun 4, 2013 | 5. Applicant:
Empire West Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Email Address(es):

mstavish@bw-iplaw.com
dinman@bw-iplaw.com
kadkins@bw-iplaw.com

Generated on: This page was generated by TSDR on 2013-06-24 14:08:56 EDT

Mark: SEROSTIM

SEROSTIM

US Serial Number: 77390281
US Registration Number: 3720570
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Dec. 08, 2009
Publication Date: Sep. 22, 2009

Application Filing Date: Feb. 06, 2008

Registration Date: Dec. 08, 2009

Mark Information

Mark Literal Elements: SEROSTIM
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US Registrations: 2012301, 2925322

Foreign Information

Foreign Registration Number: 586922
Foreign Registration Date: May 26, 2009
Foreign Application/Registration Country: SWITZERLAND
Foreign Expiration Date: Jan. 15, 2019

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Injection device for pharmaceuticals

International Class(es): 010 - Primary Class

U.S Class(es): 026, 039, 044

Class Status: ACTIVE

Basis: 44(e)

Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: Yes	Amended 44E: Yes
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Ares Trading S.A.
Owner Address: Zone Industrielle de L'Ouriettaz
Aubonne CH-1170
SWITZERLAND
Legal Entity Type: SOCIEDAD ANONIMA (SA)
State or Country Where Organized: SWITZERLAND

Attorney/Correspondence Information

Attorney of Record

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Attorney Primary Email Address: rhorowitz@bakerlaw.com

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Authorized:

Correspondent

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Domestic Representative Yes
e-mail Authorized:

Prosecution History

Date	Description	Proceeding Number
Dec. 08, 2009	REGISTERED-PRINCIPAL REGISTER	
Sep. 22, 2009	PUBLISHED FOR OPPOSITION	
Sep. 02, 2009	NOTICE OF PUBLICATION	
Aug. 06, 2009	1(B) BASIS DELETED; NEW BASIS REQUESTED	66600
Jul. 30, 2009	NOTICE OF ALLOWANCE CANCELLED	66600
Aug. 06, 2009	PETITION TO DIRECTOR - CHANGE BASIS - GRANTED	66600
Aug. 06, 2009	ASSIGNED TO PETITION STAFF	66600
Jul. 30, 2009	PETITION TO DIRECTOR - CHANGE BASIS - RECEIVED	77978
Jul. 30, 2009	PAPER RECEIVED	
Feb. 24, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Feb. 24, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 12, 2009	EXTENSION 1 GRANTED	98765
Jan. 12, 2009	EXTENSION 1 FILED	98765
Jan. 12, 2009	TEAS EXTENSION RECEIVED	
Jul. 29, 2008	NOA MAILED - SOU REQUIRED FROM APPLICANT	
May 06, 2008	PUBLISHED FOR OPPOSITION	
Apr. 16, 2008	NOTICE OF PUBLICATION	
Mar. 31, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	74215
Mar. 31, 2008	ASSIGNED TO LIE	74215
Mar. 19, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 17, 2008	ASSIGNED TO EXAMINER	72518
Feb. 11, 2008	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Dec. 08, 2009

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91205505

Filing Date: Jun 08, 2012

Status: Pending

Status Date: Jun 08, 2012

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Western Holdings, LLC

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UNITED STATES

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Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSLIM	Opposition Pending	<u>85491482</u>	
Plaintiff(s)			

Name: Ares Trading S.A.

Correspondent Address: ROBERT B G HOROWITZ
BAKER & HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY , 10111
UNITED STATES

Correspondent e-mail: rhowitz@bakerlaw.com , ejoyce@bakerlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 08, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 08, 2012	Jul 18, 2012
3	PENDING, INSTITUTED	Jun 08, 2012	
4	STIPULATION FOR AN EXTENSION OF TIME	Jul 16, 2012	
5	EXTENSION OF TIME GRANTED	Jul 16, 2012	
6	STIPULATION FOR AN EXTENSION OF TIME	Aug 17, 2012	
7	EXTENSION OF TIME GRANTED	Aug 17, 2012	
8	STIPULATION FOR AN EXTENSION OF TIME	Sep 17, 2012	
9	EXTENSION OF TIME GRANTED	Sep 17, 2012	
10	STIPULATION FOR AN EXTENSION OF TIME	Oct 16, 2012	
11	EXTENSION OF TIME GRANTED	Oct 16, 2012	
12	NOTICE OF DEFAULT	Jan 10, 2013	
13	APPL'S MOTION TO AMEND APPLICATION	Feb 08, 2013	

Type of Proceeding: Opposition

Proceeding Number: 91198217

Filing Date: Jan 18, 2011

Status: Terminated

Status Date: Aug 22, 2011

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Applied Lifescience Research Industries, Inc.

Correspondent Address: CHARLES C WELLER
CHARLES C WELLER APC
8740 VILLA LA JOLLA DRIVE, SUITE 16
LA JOLLA CA , 92037-1935
UNITED STATES

Correspondent e-mail: legal@cweller.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
ZERO-STIM	Abandoned - After Inter-Partes Decision	<u>85073089</u>	
Plaintiff(s)			

Name: Ares Trading S.A.

Correspondent Address: ROBERT BG HOROWITZ
BAKER AND HOSTETLER LLP
45 ROCKEFELLER PLAZA
NEW YORK NY, 10111
UNITED STATES

Correspondent e-mail: rhorowitz@bakerlaw.com , ejoyce@bakerlaw.com , nydocketing@bakerlaw.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SEROSTIM	Renewed	<u>74510500</u>	<u>2012301</u>
SEROSTIM	Section 8 and 15 - Accepted and Acknowledged	<u>78363301</u>	<u>2925322</u>
SEROSTIM	Registered	<u>77390281</u>	<u>3720570</u>

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 18, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 18, 2011	Feb 27, 2011
3	PENDING, INSTITUTED	Jan 18, 2011	
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5	D'S RESPONSE TO BOARD ORDER/INQUIRY	Apr 07, 2011	
6	P'S CONSENT TO D'S REQUEST TO VACATE DEFAULT AND RESET DATES	Apr 27, 2011	
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10	TERMINATED	Aug 22, 2011	